

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MITCHELL LEE VARNELL,

Plaintiff,

v.

KENNETH SAWYER, DOUGLAS
MCCARTY, JOHN DOE CORRECTIONS
OFFICER DRIVERS, STEVEN
HAMMOND,

Defendants.

CASE NO. 3:15-CV-05443-BHS-DWC

ORDER GRANTING MOTION TO
AMEND COMPLAINT

Plaintiff Mitchell Varnell, proceeding *pro se* and *in forma pauperis*, filed this civil rights Complaint pursuant to 42 U.S.C. § 1983. Before the Court is Plaintiff's Motion for Leave to File a Second Amended Complaint ("Motion"). Dkt. 22. Defendants do not oppose the Motion. Dkt. 23.

Because a court should freely and liberally grant leave to amend a complaint when justice requires, Fed. R. Civ. P. 15, and because there has been no opposition from Defendants, the Court grants Plaintiff's Motion (Dkt. 22). However, an amended pleading operates as a complete substitute for the original complaint. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992) (citing *Hal Roach Studios v. Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1990)). "All causes of action alleged in an original complaint which are not alleged in an

1 amended complaint are waived.” *Marx v. Loral Corp.*, 87 F.3d 1049, 1055-56 (9th Cir. 1996)
2 (quoting *King v. Atiyeh*, 814 F.2d 565 (9th Cir. 1987)). Here, the proposed second amended
3 complaint attached to Plaintiff’s Motion attempts to supplement his Original Complaint and First
4 Amended Complaint. *See* Dkt. 22. Therefore, the Court declines to serve the proposed second
5 amended complaint.

6 Accordingly, the Court orders Plaintiff to file a second amended complaint on or before
7 February 12, 2016. Plaintiff shall present the second amended complaint on the form provided by
8 the Court. The second amended complaint must be legibly rewritten or retyped in its entirety, it
9 should be an original and not a copy, it should contain the same case number, and it may not
10 incorporate any part of the original Complaint or First Amended Complaint by reference. The
11 second amended complaint will act as a complete substitute for the original Complaint and the
12 First Amended Complaint, and not as a supplement.

13 The Clerk is directed to send Plaintiff this Order along with the appropriate forms for
14 filing a 42 U.S.C. § 1983 civil rights complaint.

15 Dated this 11th day of January, 2016

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17 David W. Christel
18 United States Magistrate Judge
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